

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:
Salzmann et al.

Confirmation No.: **1066**

Application No.: **10/678,118**

Group Art Unit: **3621**

Filing Date: **October 6, 2003**

Examiner: **Evans Augustin**

For: **Method and System for Managing and Preparing Documentation for Real Estate Transactions**

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Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Reasons for Request for Pre-Appeal Brief Conference Review

Pursuant to the Pre-Appeal Brief Conference Program, Applicant hereby requests a pre-appeal brief conference review of the above-referenced application.

The present invention is directed to a system and method for facilitating a closing of a real estate transaction such as a closing a sale of a real estate property or closing a mortgage on real estate property. In some embodiments, the closing documents may be transmitted electronically for storage or to a lender.

Claims 26-92 and 104-113 are pending. Claims 26-92 stand under 35 U.S.C. § 102(e) as being unpatentable over U.S. Pat. No. 6,594,633 to Broerman ("Broerman").

Broerman is directed to a network for searching real estate properties and negotiating a purchase contract on a real estate property - to thereby eliminate the need to use a real estate agent. See abstr and Col. 4, line 15. The system schedules events up to the closing date. The closing actions 208 are shown in detail in Figure 10 of Broerman and relate, for example, to notifying the parties that the closing date is approaching 412, unlisting the property 418, and determining the commission schedule

422. In contrast to the present invention, Broerman is not concerned with processing data and documents to facilitate the closing of the transaction.

There are eight independent claims (claims 26, 64, 65, 72, 78, 84, 89, and 91). However, the rejection of all of these independent claims is found on page 3 of the office action and simply includes a list ten process (a-j). However, independent claim 26, for example, includes 18 claim elements, some of which have multiple limitations (e.g. the last claim element). Consequently, many of the claim elements are simply not addressed in the Final Office Action.

In addition, while some of the processes (processes a through j) listed in the rejection correlate to a particular claim element, many do not and it is not clear which claim element the Examiner asserts is disclosed by the listed process. For example, claim 26 includes the following claim elements:

- preliminarily compiling a plurality of form electronic documents with at least some of the first real estate transaction information
- outputting for review by the first party the plurality of preliminarily compiled form electronic documents
- receiving a digital image of at least one scanned ancillary document

The Office Action includes process "h. Electronic copies of documents C15, L55". However, it is not clear which of the three claim elements above are asserted to be disclosed by process h. Similarly, process j of the office action states "Dispersing of funds (C14, 60-64). However, none of the claims include a limitation of dispersing funds. In summary, it is impossible to understand and respond to the Office Action.

MPEP §706 states, "The goal of examination is to **clearly** articulate any rejection early in the prosecution process so that the applicant has the opportunity to provide evidence of patentability and otherwise reply completely at the earliest opportunity."

Applicant respectfully requests that the Board direct the Examiner to, at the very least, provide clearly articulated rejections of the claims with citations so that the Applicant has an opportunity to provide a meaningful response.

In addition, many of the claim elements are simply not addressed in the Office Action. The following is a list of claim elements found in the independent claims that Applicant submits are not found in Broerman and further, are not addressed or in any way discussed in the Office Action. It is worth noting that the language in the chart below may not be identical for each claim listed.

Independent Claims	Claim Element
26, 64, 65, 78, 84, 89, 91	storing in a memory real estate transaction information in a virtual file for each of a plurality of real estate transactions
26, 64, 65, 78, 84, 89, 91	searching the virtual files for search criterion;
26, 64, 65, 78, 84, 89, 91	outputting information of one or more virtual files satisfying the search criterion;
26, 64, 65, 78, 84, 89, 91	receiving a second user input that comprises an update to one of the one or more virtual files;
26, 64, 65, 78, 84, 89, 91	updating information in the one virtual file based on the second user input;
26, 64, 65, 72, 78,	preliminarily compiling a plurality of form electronic documents with at least some of the first real estate transaction information;
26, 65, 72, 78, 91	outputting electronic closing documents comprise said digital image of at least one scanned ancillary document and said at least one preliminary form electronic document with an electronic signature
64, 65, 72, 84, 89	in response to a third user input, generating and outputting a first report that identifies at least one of the group of: deeds and mortgages filed with a government recordation service;
64, 65, 72, 84, 89	in response to a fourth user input, generating and outputting a second report that includes information of a plurality of closings of real estate transactions.

While the Office Action fails to address the claim elements related to virtual files, it is worth noting that the searching disclosed by Broerman is a search for properties that are for sale and not a search for a file of a real estate transaction.

In addition, many of the independent claims require (in various forms) receiving a digital image of at least one (scanned) ancillary document (e.g., a pay stub, proof of insurance, etc.). The Office Action refers to electronic copies of documents. Applicant respectfully submits that Broerman fails to disclose this claim element.

Similarly, many of the independent claims require the electronic closing documents comprise the received ancillary document. Broerman similarly fails to disclose outputting (or maintaining) closing documents that include a received ancillary document and the office action is silent as to how Broerman discloses the claimed subject matter (because Broerman does not).

Dependent Claims

Furthermore, Applicant respectfully submits that Broerman also fails to disclose the subject matter of the following claims and others:

Claim 30 - electronic signature integrated is a handwritten signature. The cited passage (col. 15, line 57) states that parties can sign a **physical** copy of the purchase contract (not integrating a handwritten signature it into a preliminary compiled document as claimed).

Claim 32 - transaction comprises a closing of a mortgage on the property. The cited passage (col. 15 Line 12-41) fails to discuss any mortgage closing.

Claim 33 - condition comprises a survey. A text search reveals Broerman does not use the word "survey".

Claim 34 - transaction comprises a sale of a loan to mortgage investors. Not addressed in Office Action.

Claim 39 - first party to transaction is a mortgage investor. The cited passage (col. 6, line 6) states that the lawyer or mortgage provider is a **third** party to facilitate the transaction. Consequently, it is clear that the mortgage provider discussed is not the first party to the transaction as claimed.

Claims 46, 81 – preliminarily compiled document is a negotiable financial instrument. Not addressed by Office Action (OA).

Claim 49 - preliminarily compiled document is a Truth in lending document. See discussion below for claim 51.

Claim 50 - handwritten signature is a scanned image. Not addressed by OA.

Claim 51 - preliminarily compiled form document is a HUD-1. Applicant concedes that HUD-1 forms are known, but Broerman does not disclose preliminarily compiling a HUD-1, outputting it for review, receiving an electronic signature of the HUD-1, and outputting the electronically signed HUD-1 form (or any form) as claimed.

Claim 56 - electronically filing the electronic closing documents. Not addressed by Office Action.

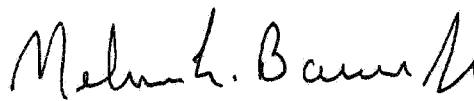
Claim 57 – electronic filing the closing documents with a government agency. Not addressed by Office Action.

Claim 86 - maintaining a **date** to disburse funds subsequent to closing date of the transaction. Not addressed by Office Action.

Claims 104-113 were not rejected or allowed demonstrating that the Examiner has not seriously considered Applicant's inventions or arguments - even though the Examiner was reminded of these claims in the Examiner Interview and previous reply.

Applicants are frustrated with repeatedly receiving one page rejections of its lengthy claims that only cursorily address some claim elements and that fail to discuss the other claim elements (of the independent and dependent claims). Applicant respectfully requests an allowance of the present application.

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